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By ECF

Honorable Vera M. Scanlon
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Famiglietti v. New York City Department of Sanitation, et al.*
1:23-cv-02754-LDH-VMS
Our No. 2023-031411

Dear Judge Scanlon:

I am an Assistant Corporation Counsel in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel for the City of New York, attorney for the defendants in the above-referenced action. I write, with the consent of Plaintiff, to respectfully request that discovery be stayed in this action pending resolution of the defendants' anticipated motion to dismiss the Complaint.

Defendants respectfully submit that an order staying discovery pending the disposition of the defendants' anticipated motion to dismiss the Complaint is warranted. Pursuant to Federal Rule of Civil Procedure 26(c), "a district court may stay discovery during the pendency of a motion to dismiss for 'good cause shown.'" Chesney v. Valley Stream Union Free Sch. Dist. No. 24, 236 F.R.D. 113, 115 (E.D.N.Y. 2006). "Good cause may be shown where a party has filed a dispositive motion, the stay is for a short period of time, and the opposing party will not be prejudiced by the stay." Boetler v. Hearts Communs., Inc., No. 15 Civ. 3934, 2016 U.S. Dist. LEXIS 12322, at *13 (S.D.N.Y. Jan. 28, 2016).

As set forth in the defendants' pre-motion letter (ECF Dkt. No. 7), Plaintiff's claims are deficient in that: (1) Plaintiff fails to establish that he a member of a protected class and cannot assert a "Class of One" claim¹; (2) the Complaint fails to state a selective enforcement claim because Plaintiff fails to identify a single comparator or plead a single fact to

¹ In Plaintiff's Letter in Reply to Defendants' pre-motion letter, Plaintiff indicated that he intends to abandon his "Class of One" claim. See ECF Dkt. No. 8.

show that he was treated differently than any other similarly-situated individual; (3) the Complaint fails to state a cause of action for religious discrimination under Title VII of the Civil Rights Act of 1964 because Plaintiff does not assert a single fact that gives rise to an inference of discrimination; and, (4) Plaintiff's failure to accommodate claim fails because Plaintiff has failed to establish that he maintains a belief that is religious in nature, rather than merely a personal preference.

Defendants' pre-motion letter makes a strong showing that Plaintiff's Complaint lacks merit. Thus, Defendants have shown good cause for staying discovery. *See, e.g., Boetler*, 2016 U.S. Dist. LEXIS 12322, at *17 (staying discovery pending a resolution on the motion to dismiss); *Targum v. Citrin Cooperman & Co., LLP*, No. 12 Civ. 6090, 2013 U.S. Dist. LEXIS 71472, at *5 (S.D.N.Y. May 20, 2013) (finding good cause to stay discovery "until Plaintiffs have finalized their complaint and dismissal motion practice against that complaint has been briefed.")

Finally, not only will Plaintiff not be prejudiced by this stay of discovery, but all parties will benefit. And, as noted earlier, Plaintiff consents to this requested stay. If the defendants' anticipated motion is granted in full, all parties will be spared the time and expense of conducting discovery. Even if Defendants' motion is granted only in part, the parties will still benefit, as the scope of discovery will be limited. *See, e.g., Chesney*, 236 F.R.D. at 116 ("By waiting until a decision is reached on the pending motion, the areas of discovery may well be substantially reduced, if not eliminated, as to certain named defendants here.").

Accordingly, the Defendants respectfully request that the Court stay discovery pending a decision on Defendants' anticipated motion to dismiss. Thank you for your consideration of this request.

Respectfully submitted,

/s/ Kathleen M. Linnane

Kathleen M. Linnane
Senior Counsel

cc: All Counsel of Record
(By ECF)